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09/831,782	05/14/2001	Melissa Dee Aquino	7346	9666

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THE PROCTER & GAMBLE COMPANY
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EXAMINER

BUI, LUAN KIM

ART UNIT PAPER NUMBER

3728

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13

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 13

Application Number: 09/831,782
Filing Date: May 14, 2001
Appellant(s): AQUINO ET AL.

MAILED
FEB 06 2004
GROUP 3700

Peter D. Meyer
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 11/21/2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on 5/19/2003 has not been entered.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

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(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-10 stand or fall together.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

4,861,632	CAGGIANO	8-1989
4,927,010	KANNANKERIL	5-1990
5,429,628	TRINH et al.	7-1995

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 and 7-9 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Caggiano (4,861,632) or Kannankeril (4,927,010) in view of Trinh et al. (5,429,628; hereinafter Trinh'628). Caggiano discloses a container comprising a bag having liquid impervious walls (3) with inner and outer surfaces and an absorbent material (4) disposed on the inner surface of the container may be impregnated with a desiccant such as calcium chloride, silica gel or any other suitable desiccant material (column 4, lines 45-50) which is considered equivalent to an odor-

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neutralizing composition such as silica as claimed. Caggiano further discloses a liquid pervious liner (5, 6) positioned adjacent the absorbent material. Kannankeril discloses a container comprising a bag (10) having liquid impervious walls (27, 28) with inner and outer surfaces and an absorbent material (35, 36) disposed on the inner surface of the container may be impregnated with a bacteriastatic agent such as a chlorine solution or common household chlorine bleach (column 3, lines 24-33) which is considered equivalent to an odor-neutralizing composition as claimed. Kannankeril further discloses a liquid pervious liner (33, 34, 40, 41) positioned adjacent the absorbent material. Caggiano or Kannankeril also discloses the other limitations of the claims except for the odor-neutralizing composition comprising cyclodextrin. Trinh'628 shows an absorbent article having an odor control system comprising the combination of a cyclodextrin with other odor controlling materials such as zeolite or antimicrobial compound and others (see abstract and claim 20). It would have been obvious to one having ordinary skill in the art in view of Trinh'628 to modify the odor-neutralizing composition of Caggiano or Kannankeril so it includes cyclodextrin for better controlling the odor.

3. Claims 6 and 10 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Caggiano (4,861,632) or Kannankeril (4,927,010) in view of the European Patent No. 0,811,390 to Guarracino. Caggiano or Kannankeril discloses the flexible bag as above having all the limitations of the claims except for the odor-neutralizing composition further comprises a chelant. Guarracino shows an absorbent article having an odor control system comprising the combination of a chelating agent and at least one other agent such as antimicrobials. It would have been obvious to one having ordinary skill in the art in view of Guarracino to modify the

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odor-neutralizing composition of Caggiano or Kannankeril so it further includes a chelat for better controlling the odor.

(11) *Response to Argument*

Appellant's arguments with respect to Caggiano on page 3 of the brief are noted. They are not persuasive because the absorbent material of Caggiano may be impregnated with a desiccant such as calcium chloride, silica gel or any other suitable desiccant material (column 4, lines 45-50) or activated charcoal to a sealed bag (column 3, lines 66-68) which is considered equivalent to an odor-neutralizing composition such as silica as further defined in claim 5. Caggiano also discloses the invention solves the problem of rapidly establishing and maintaining a dry environment inside the bag (column 3, lines 40-43) which is considered equivalent to "an effective amount" as claimed. Appellant argues that "Caggiano's arrangement is not like that of the claimed invention ..." is not understood because the claims as broadly recited read on the package of Caggiano as disclosed.

Appellant's arguments with respect to Kannankeril on page 3 of the brief are noted. They are not persuasive because the absorbent material of Kannankeril may be impregnated with a bacteriastatic agent such as a chlorine solution or common household chlorine bleach (column 3, lines 24-33) is considered equivalent to an odor-neutralizing composition as claimed since the chlorine solution or common household chlorine bleach also acts as odor-neutralizing composition wherever it applies. Kannankeril also discloses the bacteriastatic agent neutralizes

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biohazardous liquids to provide safety for persons handling the bag is considered as “an effective amount “ as claimed.

Caggiano or Kannankeril discloses all the structural limitations of the Appellant's claimed including the odor-neutralizing composition disposed upon the absorbent material except for the odor-neutralizing composition comprises cyclodextrin. However, Trinh shows an absorbent material having odor controlling materials comprising an effective amount of cyclodextrin (see abstract and claim 20). It would have been obvious to one having ordinary skill in the art at the time the invention was made in view of Trinh to modify the odor-neutralizing composition of Caggiano or Kannankeril so it includes cyclodextrin for better controlling the odor.

For the above reasons, it is believed that the rejections should be sustained.

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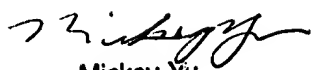
Respectfully submitted,

Luan K Bui
Primary Examiner
Art Unit 3728

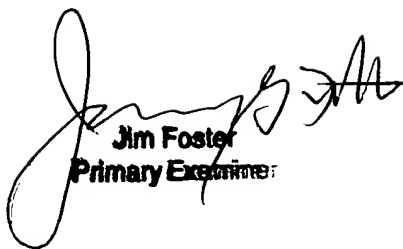


lkb
February 3, 2004

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